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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/813,705 | 03/31/2004 | Daniel A. Chustak | Chustak-3 | 7424 |

22118 7590 04/19/2005

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EXAMINER

THOMPSON, HUGH B

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3634

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/813,705

Applicant(s)

CHUSTAK, DANIEL A.

Examiner

Hugh B. Thompson II

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3-31-04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to each independent claim, the applicant positively recites the ladder, boat, gate, enclosure, water-craft, deck, etc., while the preamble for each of the claims is drawn to a track arrangement. It appears that at the least, a system of sorts should be claimed inclusive of each of the aforementioned elements. It does not appear that a track arrangement alone would adequately describe the instant invention. If the applicant does not wish to claim a system inclusive of those elements, then the phrase "adapted to be" should be used at each occurrence wherein the applicant does not intend to positively recite the elements, which again may not adequately set forth the invention.

With respect to claim 1, line 5, there is no antecedent basis for "said side rail".

In line 24 of claim 1, it is unclear as to which "second strap" the applicant has referred. Is it of the first or second hinge member?

In the last two lines of claim 1, it appears that "second position" should read --second location--.

In claim 5, line 2, the phrase "the aid" is grammatically incorrect.

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It is suggested that the applicant carefully review each of the claims to correct any other ambiguities that are present. As such, the claims would be in condition for allowance if the applicant properly addresses the each of the Section 112 ambiguities as noted above. The prior art of record fails too teach or suggest the track, axial slot, axial space, multiple straps, connectors, hinge members, gate, and enclosure structure as recited in each of the independent claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Garelick #5,117,940, Krish, Jr. #6,058,875, Elia #5,617,930, Ritten #4,724,925, Jaramillo, Sr. #5,970,905, #6,021,733, Biggert et al #2,611,466, Ruiz #6,345,691, and Schwarz #3,539,033 are cited to teach ladder assemblies.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hugh B. Thompson II whose telephone number is (571) 272-6837. The examiner can normally be reached on Monday thru Friday 9 am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (571) 272-6856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hugh B. Thompson II
Primary Examiner
Art Unit 3634

April 14, 2005